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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/896,790	06/28/2001	Joseph Dara-Abrams	080398.P444	8907

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EXAMINER

WACHSMAN, HAL D

ART UNIT	PAPER NUMBER
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2857

DATE MAILED: 07/03/2002

Please find below and/or attached an Office communication concerning this application or proceeding.



**UNITED STATES DEPARTMENT OF COMMERCE**  
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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER
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Commissioner of Patents and Trademarks

Hal D Wachsman  
Primary Examiner  
Art Unit: 2857

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	09/896,790	DARA-ABRAMS ET AL.	
	Examiner	Art Unit	
	Hal D Wachsman	2857	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 June 2001.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 and 16-29 is/are rejected.
- 7) ☒ Claim(s) 15 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 June 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)              | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>2</u> . | 6) <input type="checkbox"/> Other:  |

Art Unit: 2857

1. The drawings have been approved by the Draftsperson's. However, the Examiner objects to Figure 8 because what is cited in this figure was well known in the prior art therefore Figure 8 needs to be labeled as "Prior Art". Appropriate correction is required.
2. The Abstract is objected to because it is greater than 150 words in length. In addition, the use of the words "capable of" implies that the invention may or may not do what is described. Appropriate correction is required.
3. Claims 1-26 are objected to under 37 C.F.R. 1.75(a) for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention. Claim 1, line 7, cites "capable of" which implies that the invention may or may not do what is described. This same type of problem also occurs in claim 11, line 4, claim 23, line 7, claim 24, line 7, claim 25, line 4, claim 26, line 4. Claim 9, line 2, cites "the testing consumer electronic device" however the antecedent basis is "at least one testing consumer electronic device". Claim 11, line 8, cites "the user" which lacks antecedent basis. This same type of problem also occurs in claim 25, line 8, claim 26, line 8. Claim 18, line 2, appears to be missing the word "one" after "which". Claim 19, line 3, cites "any one of the testing consumer electronic device" however the antecedent basis is singular. The examiner asks the applicant to better claim the limitations cited above. While the examiner understands the intentions of the applicant he feels confusion could be drawn from the limitations cited above. Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

5. Claims 1, 3-6, 8, 9, 11, 16-18 and 22-29 are rejected under 35 U.S.C. 102(e) as being anticipated by Babula et al. (6,381,557).

As per claim 1, Babula et al. (see at least abstract) disclose the receiving step. Babula et al. (Abstract, col. 7 lines 12-28, col. 11 lines 4-25) disclose the providing step.

As per claim 3, Babula et al. (col. 11 lines 4-59) disclose the feature of this claim.

As per claims 4 and 5, Babula et al. (see at least abstract) disclose the features of each of these claims.

As per claim 6, Babula et al. (Abstract, col. 6 lines 36-42) disclose the feature of this claim.

As per claims 8 and 9, Babula et al. (see at least abstract) disclose the features of each of these claims.

As per claim 11, Babula et al. (see at least abstract) disclose all the features of this claim.

As per claim 16, Babula et al. (Abstract, col. 7 lines 24-41, col. 9 lines 5-39) disclose the features of this claim.

As per claim 17, Babula et al. (Abstract, col. 8 lines 58-67, col. 9 lines 1-22) disclose the feature of this claim.

As per claim 18, Babula et al. (Abstract, col. 4 lines 34-39) disclose the feature of this claim.

As per claim 22, Babula et al. (see at least abstract) disclose the feature of this claim.

As per claim 23, Babula et al. (see at least abstract) disclose the means for receiving information as described in lines 3-4 of the claim. Babula et al. (Abstract, col. 7 lines 12-28, col. 11 lines 4-25) disclose the means for providing a diagnostic procedure as described in the last 4 lines of the claim.

As per claim 24, Babula et al. (see at least abstract) disclose the user interface as described in lines 3-4 of the claim. Babula et al. (Abstract, col. 7 lines 12-28, col. 11 lines 4-25) disclose the gateway device as described in the last 4 lines of the claim.

As per claims 25-29, Babula et al. (see at least abstract) disclose all the features of each of these claims.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 2, 7, 10, 12-14 and 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Babula et al. (6,381,557) in view of the Applicant's Admissions of the prior art.

As per claim 2, Babula et al. (see at least abstract) disclose what is described in this claim with the exception of the use of a home network. However, the Applicant's Admissions of the prior art (page 10 lines 13-16, page 12 lines 7-13 of the specification) teach this excepted feature. It would have been obvious to a person of

ordinary skill in the art at the time the invention was made to apply the Applicant's Admissions of the prior art to the invention of Babula et al. as specified above because as taught by the Applicant's Admissions of the prior art (page 12 lines 11-13 of the specification) the HAVi standard provides a home network architecture which is open, scaleable, platform independent, and language neutral.

As per claim 7, Babula et al. (see at least abstract) disclose what is described in this claim with the exception of the use of a home network. However, the Applicant's Admissions of the prior art (page 10 lines 13-16, page 12 lines 7-13 of the specification) teach this excepted feature. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to apply the Applicant's Admissions of the prior art to the invention of Babula et al. as specified above because as taught by the Applicant's Admissions of the prior art (page 12 lines 11-13 of the specification) the HAVi standard provides a home network architecture which is open, scaleable, platform independent, and language neutral.

As per claim 10, Babula et al. (Figure 10) disclose what is described in this claim with the exception of the use of a home network. However, the Applicant's Admissions of the prior art (page 10 lines 13-16, page 12 lines 7-13 of the specification) teach this excepted feature. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to apply the Applicant's Admissions of the prior art to the invention of Babula et al. as specified above because as taught by the Applicant's Admissions of the prior art (page 12 lines 11-13 of the specification) the



HAVi standard provides a home network architecture which is open, scaleable, platform independent, and language neutral.

As per claim 12, Babula et al. (see at least abstract) disclose what is described in this claim with the exception of the use of a home network. However, the Applicant's Admissions of the prior art (page 10 lines 13-16, page 12 lines 7-13 of the specification) teach this excepted feature. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to apply the Applicant's Admissions of the prior art to the invention of Babula et al. as specified above because as taught by the Applicant's Admissions of the prior art (page 12 lines 11-13 of the specification) the HAVi standard provides a home network architecture which is open, scaleable, platform independent, and language neutral.

As per claim 13, Babula et al. (Abstract, col. 5 lines 15-24, 45-53, col. 7 lines 24-33) disclose the features of this claim.

As per claim 14, it would have been obvious to a person of ordinary skill in the art at the time the invention was made that stimuli such as a sequence of test vectors were notoriously well known in the art and that measurement instructions would be needed to specify what exactly in the potentially faulty consumer electronic device needs to be tested.

As per claim 19, Babula et al. (Abstract, figure 10) disclose the feature of this claim with the exception of the use of a home network. However, the Applicant's Admissions of the prior art (page 10 lines 13-16, page 12 lines 7-13 of the specification) teach this excepted feature. It would have been obvious to a person of ordinary skill in

the art at the time the invention was made to apply the Applicant's Admissions of the prior art to the invention of Babula et al. as specified above because as taught by the Applicant's Admissions of the prior art (page 12 lines 11-13 of the specification) the HAVi standard provides a home network architecture which is open, scaleable, platform independent, and language neutral.

As per claims 20 and 21, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to have a reference signature of a known properly operating equipment consumer electronic device to which comparisons can be so as to detect abnormalities.


8. Claim 15 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims and subject to the appropriate correction of the 37 C.F.R. 1.75(a) objections noted above.

9. The following references are cited as being art of general interest: Jenkins et al. which disclose a test definition tool, Humpleman which disclose a home multimedia network architecture, Kimura et al. which disclose an error monitoring system for video/audio devices and Humpleman et al. which disclose a browser based command and control home network.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hal D Wachsman whose telephone number is 703-305-9788. The examiner can normally be reached on Monday to Friday 7:00 A.M. to 4:30 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marc Hoff can be reached on 703-308-1677. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-7722 for regular communications and 703-308-7722 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

  
Hal D Wachsman  
Primary Examiner  
Art Unit 2857

HW  
June 30, 2002